E-Consultations: A Review of Current Practice and a Proposal for Opening Up the Process

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Abstract. Information and communication technologies have altered the relations between the political system and citizens. Policy-formulation is enhanced by e-consultations that extend the knowledge base and the legitimacy of policy-making. However, current e-consultation practice in the EU falls short of the potential. The paper proposes a deliberative turn, the use of special purpose technologies and the integration of social media discourse into the consultation process as means to further open it up and to strengthen the connection between government and citizens.

Keywords: online consultations; social media; policy-making; e-participation

1   Introduction

Information and communication technologies (ICTs) have altered the relations between the political system and citizens. They provide convenient access to large amounts of information, open up new channels for communicating with political representatives and other citizens and offer means to organise collective action and the formation of groups, thus contributing to vital democratic life. However, technology is not to be seen as an actor of social change, but merely as a facilitator or catalyst (or even inhibitor, depending on the viewpoint). To realise its potential, careful choices about technological, political as well as procedural designs have to be made [1].

This paper analyses the procedural design choices underlying e-consultations, considered as one of the internationally most important means of e-participation. E-consultations are viewed as lowering the threshold for individual citizens to participate in policy-making [2], on the other hand, their impact on policy falls short of the expectations [3]. Focusing on the role of e-consultations in the European Union's policy process, this paper discusses whether established and novel forms of consulting citizens online lead to more extensive consideration of the views of stakeholders and more openness of the policy-making process. It argues that e-consultations should embrace policy debates in social media "third" spaces and suggests a procedural model for open e-consultations, in line with the call to move from the notion of "e-participation" to that of "open participation" [4].

The paper starts with a discussion of current e-consultation practice in the EU on the background of democratic theory. It discusses several approaches to improve e-

consultations with regard to criticism raised in the literature, and proposes a coherent procedural model integrating and extending these approaches to further open up the e-consultation process. The concluding section discusses issues and research needs that are raised by this proposal for a new consultation process.

2 E-consultations in the Process of Policy-Making

2.1 Theoretical Background

E-consultations are top-down e-participation initiatives (see the classification in [5]) carried out with a twofold aim: to enhance the legitimacy of the political system and to improve the quality of policy-making. From the perspective of theories of democracy, (e-)consultations (as a democratic political procedure among others) offer one potential channel to connect the free and informal flow of communication within civil society to the political system and its decision making processes.

Consultations may be seen as an informal and not binding procedure. However, if consultations are more than a façade activity of government and offer transparency and accountability, they can exert a form of "non-coercive coercion" in the sense of Habermas ([6], p. 132). In his view, communication channels between civil society and the political system serve to "rationalise" political decision making ([7], p. 364) in that the competency of the political system to reach collectively binding decisions is complemented by the competency of civil society to form a political will, based on the free association of citizens and the public exchange of views and opinions. In effect, not only the legitimacy of political decisions, but also their proper content is ultimately determined, at least in part, by the citizens. This marks a shift from a liberal model of democracy with a strong separation of the political and the private sphere with only little interconnections to a deliberative model of democracy [7]. But the extent to which such a shift occurs depends on the design of procedures such as e-consultations.

From the perspective of the policy process, e-consultations are typically carried out in the policy formulation phase. This is the phase after an issue has been identified as relevant and in need for regulation (agenda setting phase), but before actual decisions are taken and implemented [8]. Consultations are based on more or less extensive drafting activities within the administration, often preceded by informal reviews of individual stakeholders. Here, according to a model of deliberative democracy, political orientations, public views from citizens and stakeholders and the perspective of public administration have to be brought together to form high quality policy proposals that successfully advance through the political process.

E-consultations have gained considerable attention following recommendations by the OECD [9] and national governments (e.g. [10]). Today, they are considered as one of the most important forms of e-participation activities internationally apart from mere information activities ([5], p. 65) and have gained widespread adoption globally ([11], p. 45). However, the way e-consultations are conducted varies considerably with respect to the technology used (e-mail, online forms, online forums, web 2.0-

tools etc.) and the design of the procedures (provision of background information, provision of feedback on results, participation of political actors etc.). In the following, we will focus on the way e-consultations are used in the context of policy-making at the European level.

2.2 E-consultation Practice in the EU

The European Commission has endorsed the use of e-consultations subsequent to the White Paper on "European Governance" [12] in what is called the "third generation" of the EU consultation regime [2]. This document called for "a reinforced culture of consultation and dialogue" ([12], p. 16) on the European level as well as in the member states with the aim to make policy-shaping more effective. This strategy was implemented broadly. A recent communication by the European Commission states that policy-making has been opened to stakeholders, and: "Stakeholder consultations and impact assessments are now essential parts of the policy-making process." ([13], p. 2).

The e-consultation process builds (though not exclusively, see [14]) on a common online platform for all Directorates-General (DG), the "Your Voice" platform (ec.europa.eu/yourvoice). This website lists open as well as closed consultations and provides links to related information. Consultations on EU policy initiatives are usually based upon a policy draft (e.g., a Green Paper) from the Commission (sometimes together with the Council) outlining the current state of affairs, the goals to be reached by the legislation, the regulatory approach favoured by the Commission (and/or other EU bodies), and some policy alternatives.

The consultations can be either multiple choice questionnaires, semi-structured questionnaires (structured by questions, but open for all kinds of answers), or fully open, unstructured questions [2]. Accordingly, submissions from participants are collected in the form of e-mails or via web-based questionnaires, with responses published on the consultation's website unless respondents specifically request the confidentiality of their contributions. Sometimes specific deliberative consultations are conducted [15]. The consultations are open to the general public, but citizens are specifically targeted only if an issue has high public relevance.

The effects of the EU's e-consultations have been assessed by only a small number of studies. Quittkat and Finke found that they "have become a regular instrument of consultation, introduced by nearly all DGs." ([2], p. 206) Online consultations have broadened the input to the policy-making process by addressing the wider public more often than traditional means and by attracting representatives of diverse interest groups. They are an indicator of a "strategy of knowledge collection" and not only of a participatory strategy ([2], p. 217). However, the study also found that the processing of contributions is far from transparent and that the focus shifts from open questions to more strongly structured consultations with closed (multiple choice) questions.

Tomkova's overview of research on e-consultations presents similar findings. The introduction of e-consultations on the one hand extends the spaces of interaction between political institutions and citizens. On the other hand there is few evidence that e-consultations impact mutual learning and policy outputs ([3], p. 9). This criticism is affirmed by a study on the involvement of NGO's in public consultations, which

found that these stakeholder organisations do not receive enough feedback on their proposals and how they affected policy-making. In consequence, stakeholders seek more informal and direct relations with governmental agencies to foster better mutual understanding ([16], p 48f.). Governmental agencies, on the other hand, have to design intensive communication strategies to get "users on board" the e-consultations ([17], p. 61).

Hüller sees the analysis of stakeholder contributions in e-consultations as the "needle eye" of the EU's participative policy-making ([18], p. 377). His case study points out several discrepancies between statements in the consultation and the outcome report by the Commission, concluding that the latter is not an accurate and objective summary account of the responses as claimed by the Commission's report ([18], p. 379). Furthermore, the one-way format of e-consultations does not allow to debate controversies that were initiated in the course of the consultation. Thus, the EU's e-consultations are considered an innovative instrument, but fail to open up policy-making towards a deliberative model of democracy.

To summarize, the experiences with the EU's e-consultations up to now have shown that this instrument of e-participation is broadly implemented across the different DGs, that it provides participation opportunities beyond what was offered before, and that e-consultations have extended the knowledge base of policy designs and decisions. On the other hand, the process is criticised as being narrow and one-way, disregarding the benefits of deliberation for fostering closer relations between government and citizens and for stimulating opinion formation among stakeholders. Furthermore, no transparent process is offered for analysing the contributions, and the impact on policy-making remains opaque.

Furthermore, only limited use is made of technology to support the consultation process. The Yourvoice platform offers a state-of-the-art gateway to e-consultations, but the proper consultations are conducted with common, general-purpose tools instead of specific e-participation tools ([17], p. 63). In particular, the rise of the web 2.0 does not seem to have affected the EU's e-consultations, neither are web 2.0 tools used to conduct the consultations [19], nor are the new arenas of debate, such as the political blogosphere, integrated in the consultations' communication strategy. Aside the formal e-consultations, however, a number of web 2.0 initiatives was initiated recently by various European institutions (see [20]).

3   E-consultations in the Process of Policy-Making

The criticism of the EU's e-consultations is well known among e-participation researchers, and a number of alternative approaches have been developed and are being experimented with on various levels of government. These set out from the notions that deliberation enhances the quality of input to the policy-making process (1), that specific technologies for e-participation should be used for e-consultations (2), and that governments should move towards those spaces where citizens debate online instead of providing distinct, but remote spaces for policy discourses (3).

3.1 Deliberative E-consultations

Deliberation in the context of policy consultations means the opportunity not only to give comments on policy proposals, but also to discuss the proposal and the comments together with other participants and – ideally – the addressees of the comments. The idea is that preferences are not fixed, but are formed and modified in the process of deliberation (note the double meaning of "deliberation" as an individual as well as collective activity). The results of deliberation are supposed to better represent the stakeholders' views and also to promote the legitimacy of the consultation process [21].

Whereas the theoretical potential of deliberation is widely acknowledged, several problems limit its adoption in practice (cf. [22]). The concept originally derived from small group discussions in face-to-face settings. Adapting large-scale consultations to the deliberative paradigm means to stimulate large-scale interactive debate between participants. This entails high costs and rums counter to experiences showing that only a minority of participants actively engages in such debates. Further problems include the need to facilitate the debates to ensure a high quality of deliberation, the need to inform or even educate the participants prior to the deliberation and the fact that in most cases, stakeholders deliberate among themselves, because civil servants and politicians hesitate to participate actively.

Although there are several examples of successful deliberative e-consultations, not least at the EU level ([15]; [23], p. 53f.), this approach to enhance e-consultations faces challenges such as the big effort needed to get people actively deliberating, the limited adoption of technologies to support deliberation beyond web-based forums [17] and the fact that online spaces for deliberation are designed often as distinctive platforms, as exclusive spaces of political debate with little connection to more life-worldly spaces citizens are visiting online [24]; [25]. Deliberative e-consultations are a first and highly important step to improve e-consultations, but we need to look at further approaches to cope with the several unresolved issues.

3.2 Technologies for E-consultations

Although e-consultations use the Internet as a channel for the communication of comments from stakeholders to the administration, surprisingly little use is made of specific technologies to support the communication process. As the survey by Panopoulo et al. concludes, "eParticipation initiatives mainly use existing, general-purpose ICT tools" ([17], p. 63). However, apart from special-purpose technologies such as geographical information systems (GIS) for planning issues, two technologies to be generally used in e-consultations have been proposed and experimented with recently: natural language processing and argument visualisation technologies.

Natural language processing is seen as a means of mitigating the burden of facilitating and summarising large-scale debates. Stromer-Galley et al. proposed using this technology in a question answering system to help participants in a consultation learn about the issue at stake, to confront them with issues raised by other participants, and to suggest new topics ([22], p. 86). Tigelaar et al. developed a method to summarise

discussion threads automatically, potentially easing the task of getting an overview of an online policy debate [26].

Evaluation results are mixed for these approaches, however. The summariser was only tested with artificial data and a small number of test users who gave average grades for the results of automatic summarisation, indicating "room for improvements" ([26], p. 180). Evaluation of the question answering system in real consultation contexts was hindered by the fact that participants tended not to use it voluntarily, those who did found it "somewhat useful" ([22], p. 90).

Another technology to support e-consultations is argument visualisation. Argumentation is a central feature of policy deliberation, and visualising the structure of individual arguments as well as the way they relate to each other is seen as a way of improving the rationality and efficiency of online debates [27]. Recent proposals to use argument visualisation in the context of e-consultations include Debategraph [28], ArgVis [29], and the "IMPACT" AVT tool [30].

While the latter two are still prototypes and in the process of being evaluated, the evaluation results for the Debategraph platform indicate that the tool's potential is in the agenda setting and policy analysis phase of the policy cycle [28]. It requires users some time to learn how to use it and poses some usability problems that make it appear less suitable for communication with the public, but rather for inter-institutional cooperation. Although the authors believe that their results can be extended to other argument visualisation tools, it has to be noted that the study is based on a small number of 12 test users.

Natural language processing as well as argument visualisation technologies are objects of ongoing research. Evidence of their practical use for e-consultations is growing only gradually. Initial results indicate that they have the potential to mitigate some of the problems of deliberative consultations, but more research and more evaluation is needed. An interesting feature of these technologies is that contrary to many e-participation tools that are developed in the context of dedicated platforms, these technologies can be applied to various platforms and thus various spaces of online policy discourse.

3.3   E-consultations and Social Media Spaces

This feature is particularly interesting when we consider a third approach to take e-consultations further, namely to integrate them more closely with social media. It is based on criticism that policy consultations are organised as top-down initiatives and largely ignore that political debate is already going on among citizens in online spaces such as the blogosphere and social networking sites. An alternative approach to e-consultations is to link e-consultations to these "third places" ([31], p. 30).

Social media environments are places where "individuals express many different facets of their identities and in which diverse lifestyles and values play out" ([31], p. 30). Examples include personal weblogs, social networking sites like Facebook, but also older forms of social media like online forums where people exchange information and viewpoints on certain topics. Social media environments have become part of the daily life world of many citizens which is so vital for the constitution of civil society ([7], p. 443). E-participation researchers increasingly view these places as

political spaces, arguing that in these spaces, every day talk can have a political meaning and the distinction between the political field and the life world is being blurred ([31]; [32]; [33], p. 11f.).

This view is not only expressed within the research community, but also by activists from civil society who are dissatisfied with e-participation initiatives not opening up towards what is being felt as a "community of Internet users" (personal communication at a workshop at the Government 2.0 camp in Berlin, 2010). With social media becoming increasingly recognised as political space and civil society actors increasingly using the empowering potential of ICTs to initiate bottom-up e-participation ([5], p. 41ff.; [23], p. 57ff.), the question arises how consultations in the field of institutional politics can be connected to civil society's online spaces and the political talk and engagement in these spaces?

Approaches to connect e-consultations with social media spaces have been proposed in several e-participation research projects. The "Puzzled by Policy" platform is based on widget technology and pushes content from the platform to various social media platforms, thus attempting, among other aims, to "bring the platform to the users rather than trying to attract users to the platform." ([34], p. 130). In the "We-Gov" project it was found that policy-makers already monitor social media discourse in areas relevant to them. The project develops tools to extend traditional press relations techniques into the social media environment, more specifically social networking sites, and also to inject policy-makers' statements into specific groups on such platforms [35]. The "Padgets" project provides policy-makers not with a consultation platform, but rather with widgets to consult people in specific social media environments [36]. The widgets provide functionality to inform, consult and analyse opinions and can be used flexibly within various social media environments [37].

The "IMPACT" project, last but not least, focuses on arguments raised in the policy analysis phase. It designs special purpose tools based on computational models of argumentation for argument analysis and visualisation as well as for policy modelling and structured consultations [38]. These are developed as web services that can be used on various platforms, based on widgets providing a common user interface. For example, a policy analyst may use the "argument reconstruction tool" to transform a statement from a social networking site into a formal argument on a policy issue, or the reader of a weblog may use the "argument visualisation" tool to make sense of the debate there.

4   Opening Up the E-consultation Process: A Proposal

These different approaches to enhancing the consultation process show great promise in their respective problem area, but they do not solve the problems identified with regard to the role of e-consultations in the policy process. However they provide a basis for a new form of e-consultations, which promises to be more open and effective than the current regime and thus may improve the quality and legitimacy of policy decisions.

E-consultations should not be seen as a primarily participative element of democracy, but also as a knowledge management procedure. This view shifts the focus from

those who participate in a consultation to the views that are considered, in line with research on policy argumentation in e-participation. Assessing the views of stakeholders should be a multi-faceted process, with top-down institutional consultations (government asking citizens about policy proposals) being joined by more informal assessments such as media content analysis, public opinion research as well as social media research, all of which are already carried out as part of the policy formulation phase.

In this process, opinions resulting from deliberation should be regarded as superior to opinions resulting from non-interactive assessments, because the former are closer to a consensual view than individual opinions and the arguments are already structured and weighted. Given the problems with organising deliberation among civil society actors reported earlier, advantage should be taken of the deliberation already going on in diverse online spaces and in mass media. However, providing opportunities for deliberation should also be a focus of policy-makers, as the benefits for democracy clearly outweigh the associated costs.

The integration of social media environments in policy consultations should not have the form of merely using social media as an outlet to reach broader targets or as raising attention for a consultation (though the latter might make sense as an additional activity). Nor should social networking sites be used as spaces for institutionalised debates or to inject political messages, given that they are under the control of private companies and that users like to maintain the distinction between systemic and life-worldly spaces among their online environments [39]. Online discourse should rather be analysed as a form of public opinion to inform the policy formulation and to assess potential controversial issues associated with a particular policy (an example can be found in the activities of the German Federal Institute for Risk Assessment to measure public perception of nanotechnology in online discourse, [40]).

These proposals for e-consultations to become more open towards social media discourse and more active with regard to listening to stakeholders are procedural in nature to a large degree. But technologies also play a role, as these are needed to help analyse large amounts of textual data and to make sense of it in the course of debating policies. Tools based on natural language processing as well as formal models of argument appear to be promising, although their practical use has still to be put to the test.

We already found evidence that the tools should not be tied to specific consultation platforms, but rather be applicable to various discursive online spaces like the widgets proposed in some research projects. What is more is that the tools should not be designed for use by governmental agencies or facilitators, but should be open to citizens interested in making sense of policy issues and gaining an overview of debates. This would empower them by improving the preconditions for participating in e-consultations [41]. Furthermore, coupling several tools in a kind of toolbox seems appropriate to ease the administration and the application of the tools in the context of specific consultations, for example by help of a common look-and-feel of the user interfaces.

Finally, although some potential can be ascribed to technological support of e-consultations, it should be clear that the work of assessing the views of stakeholders cannot be automated, but will remain to a large part the work of human policy-makers, analysts and facilitators. Experiences so far have pointed out the limits of

computerisation of tasks like summarising divergent viewpoints and evaluating statements and their respective context. The role of technology can be a supporting one, but not one of substituting the human factor.

5   Conclusions and Future Work

To summarize, the main differences between the proposed process of e-consultation and established ones are the following:

- The consultation makes use not only of ICTs in general, but of specific technologies to support deliberation and participation. These are provided as tools to empower all participants in the consultation, stakeholders as well as the organisers of the consultation. Technologies are provided platform-independent to allow their use across various consultation and social media platforms.
- The consultation is not restricted to comments sent in via a dedicated consultation platform, but is open towards deliberation on that platform as well as in social media environments, wherever policy issues are discussed. The social media environment is endorsed and respected not as outlet for marketing purposes, but as a space of debate that is part of the life world of citizens.
- Government agencies preparing policy drafts not only take into account what citizens tell them (passive listening), but also actively listen to citizens' public communication and analyse the relevance of such talk for planned policy. This active listening is implemented as a standard procedure in the process of participative policy-making, undertaken in conjunction with stakeholder consultations.

The process proposed here addresses several of the issues of e-consultations raised in the literature and builds upon current policy-making practice as well as recent work in e-participation research. It goes beyond current practice and other proposals to enhance e-consultations not only by offering a coherent, procedural approach, but also by dealing with some of their weaknesses, especially with regard to the handling of social media integration into e-consultations.

Several new issues are raised by this proposal, which point to needs for future research on open e-consultations. If lifeworldly third spaces are approached and analysed for policy comments, the privacy of participants has to be protected. People stating their views in semi-public social media spaces might not consider that their posts are analysed with the help of sophisticated technology and harvested for political statements. Thus, special attention has to be given to ensure that no one can trace individual users or build a profile of their opinions. On the other hand, the anonymity provided by some online platforms might lead to biased results if people deliberately misuse this feature. Here, a way to reconcile the need to identify participants and the negative effects of forcing people to use their real name in political debates still has to be found (for some initial steps in this direction, see [42]).

Technical problems include the need to identify relevant debates in the vast and unstructured social media environment. Initial work has been done in the field of social media monitoring and also the "WeGov" project, but often tailored to specific social media platforms. Furthermore, neither natural language processing nor argu-

mentation technologies are yet developed on the level of end user application, they are still areas of intensive research.

From the perspective of public administration, the transparency of the consultation process becomes even more important as more statements from more diverse sources are taken into consideration, including offerings strongly linked to a commercial orientation. Argument visualisation technologies might help to allow users to trace how statements are developed into modifications of policies, e.g. by linking the results to the original statements as proposed in the "IMPACT" project. But public administrations also have to further develop organisational cultures of active listening and openness, a process which has already begun in several countries in the context of "open government" initiatives.

A final issue is the fate of established intermediaries of the policy process, such as media organisations, but also parties. Their roles are put under stress in the process of institutional change of the political system. But they could play a strong role in open consultation processes by raising attention to specific policy issues and using the respective tools to strengthen their traditional activities like aggregating opinions and structuring complex debates.

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